

REMARKS

Applicant wishes to thank the Examiner for the thorough consideration given the present application. Claims 1-24 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Allowable Subject Matter

It is gratefully acknowledged that the Examiner considers the subject matter of claims 2, 3, 5, 13 and 17-19 as being allowable if rewritten in independent form. These claims have not yet been rewritten in independent form since the claims from which they depend are considered to be allowable. Applicants have added new dependent claims 20-24 which correspond to claim 2 but depend from claims 6, 8, 11, 14 and 15.

Claim for Priority

Applicants note the Examiner has acknowledged the claim for foreign priority and indicated that none of the certified copies have been received. However, this is incorrect since Applicants have not made a claim for foreign priority. Instead, the Declaration lists one (1) foreign application which is not being claimed.

Information Disclosure Statement

The Examiner has acknowledged the Information Disclosure Statement filed on April 1, 2000. An initialed copy of the PTO-1449 Form has been received from the Examiner. No further action is necessary at this time.

Drawings

The official Draftsperson has not approved of the formal drawings submitted by Applicant. It is respectfully submitted that the drawings comply with the requirements of the U.S. Patent and Trademark Office. If the Official Draftsperson has any objections to the formal drawings, he is respectfully requested to contact the undersigned as soon as possible so that appropriate action may be taken. No further action is believed to be necessary at this time unless the undersigned receives a notice from the Official Draftsperson.

Objection to the Specification

The Examiner objected to the specification as having terms which are not clear, concise and exact. The Examiner lists examples on page 1, 2, 4 and 5. By way of the present amendment, Applicant has corrected these instances of objectionable language. This objection is believed to be overcome.

Claim Objections

The Examiner objected to claims 1, 6, 8, 11, 14 and 15 due to two phrases which the Examiner considers awkward. By way of the present amendment, Applicant has changed each of these phrases to make the wording more clear. Accordingly, these objections are believed to be overcome.

Double Patenting Rejection

Claims 1-19 stand rejected under the judicially created doctrine of obviousness-type double patenting with claims 1-13 of U.S. Patent 6,146,257. The Examiner believes that the claims are not patentably distinct because the sharpening apparatus as claimed in both instances are similar and are similarly manipulated to form different angles to perform the sharpening process. This rejection is respectfully traversed.

First, it is noted that the Examiner does not specify which claims of the present application are rejected over which claims of the patent. Since there are a number of independent claims in each group, the Examiner is requested to point out exactly which claims are the basis for the rejection and how the present claims are obvious thereover. The Examiner has only stated that in both instances the claims are similar and similarly manipulated. Applicant submits that this is not sufficient explanation to show the obviousness of the present claims. Accordingly, should the

Examiner continue this rejection, he is requested to be more specific.

Furthermore, Applicant submits that the present claims are not obvious over the claims of the patent. The claims in the present application describe the holder, the permanent magnet and the straight member. These items are not described in any of the claims in the patent. Instead, the patent claims include descriptions of the sharpening member, the guide member and a positioning assist element. Since the patent claims do not include the elements that are presently being claimed, Applicant does not see how they can be obvious thereover. Accordingly, Applicant submits that this rejection is overcome.

Rejection under 35 U.S.C. § 103

Claims 1, 4, 6-12 and 14-16 stand rejected under 35 U.S.C. § 103 as being obvious over Revell (U.S. Patent 2,324,025) in view of Lore (U.S. Patent 4,303,054). This rejection is respectfully traversed.

The Examiner states the Revell shows a dental tool grinder with holder having a first flat face in contact with a measuring object. The Examiner references tool holder 22, which Applicant assumes is directed to the holder having a flat face, since the measuring object would be dental tool 10. The Examiner further states that Revell shows a straight member projecting from the

second face holder and references arm 41. The Examiner further states that Revell shows a scale plate but does not specify an element in the reference for which this corresponds. The Examiner also states that the reference shows a base plate for supporting a scale plate but only refers to Fig. 3. The Examiner further describes the sharpening section with the base plate having a substantially flat face 15 with the guide member on a base plate and references channel 23. The Examiner admits that Revell does not have a magnet and relies on Lore to show the use of a magnet for securing devices thereto.

The Examiner does not specifically describe how the magnet of Lore would be used with the Revell device, but it is assumed it would be connected to tool holder 22 and would magnetically attract the tool to this holder.

Claim 1 describes an angle measurement assist device having a combination of elements, including a holder with a flat face which is in contact with the portion of the object to be measured, a permanent magnet mounted to the holder so that the holder can be retained on the device to be measured, and a straight member, projecting from the second face of the holder having a size sufficiently greater than that of the measurement object portion. Applicant submits that this claim would not be obvious over the combination of Revell and Lore.

Applicant submits that the Examiner's correlation of various parts of Revell to the claim are inaccurate. Thus, the Examiner has referred to tool holder 22 as being the holder with the flat face. However, in claim 1 the flat face is in contact with the portion of the measurement object being subject to an angle measurement. In Revell, this face is in contact with the handle, but not in contact with the portion which is subject to the angle measurement.

Secondly, the claims states that the permanent magnet permits the device to be magnetically retained on the measurement object portion. Assuming there was a magnet in Revell, it would hold the handle of the measurement object against the holder but would not hold the measurement object portion at all and would not cause the holder to be retained on such a measurement object portion. For these reasons, Applicant submit that claim 1 would not be obvious over this reference.

The Examiner also states that the Revell reference shows a scale plate. It is not clear which element the Examiner considers to be a scale plate. However, the scale plate is described in claim 6 as having a central portion formed with a hole to permit the distal end of the shank to pass therethrough. While a series of slots are formed on the flat face of the holder 22, none of these appear to have a hole which receives the distal end portion of the shank. Likewise, arm 41 extends into various number of holes 36-50

but the shank does not pass therethrough. Applicant submit that no such scale plate is show.

The Examiner states that sharpening section 15 is mounted with a guide member 23 mounted on a base plate. However, claim 7 states that the base plate supports the scale plate and the scale plate extends vertically from the base plate. Such an arrangement of a base plate and scale plate is not described.

In regard to claim 4, a second straight member projecting from the third face is described. However, the Examiner has not correlated such a second straight member with any part of the Revell reference. Accordingly, Applicant submits that claim 4 is likewise allowable.

Claim 6 includes the combination of elements similar to claim 1 and additionally includes a description of the scale plate which is not seen in the references as discussed above. Accordingly, claim 6 is likewise allowable.

Claim 7 describes that the scale plate vertically extends from the base plate, which is not seen as described above. Accordingly, claim 7 is likewise allowable.

Claim 8 includes a combination of elements similar to that of claim 1 and further describes the base plate having a first scale and a second scale. Since the Examiner has not pointed out such

scales on a base plate, Applicants submits that this claim is allowable.

Claims 9 and 10 further describe the two lines serving as scales and a scale plate provided with two scales. These have also not been identified by the Examiner accordingly, these claims are likewise allowable.

Claim 11 describes a combination of elements similar to claim 1 and further describes a base plate with a scale indicative of a target positioning angle. Since the Examiner has not described such a base plate with a scale, Applicant submits that this claim is likewise allowable.

Claim 12 further describes a rod member disposed on the base plate which is pivotable. The Examiner has not identified this element either and accordingly this claim is likewise allowable.

Claim 14 describes a combination of elements similar to claim 1 and further describes in great detail the guide member and the scale plate. Since the Examiner has not indicated where these features are shown, this claim is likewise considered to be allowable.

Claim 15 includes a combination of elements similar to claim 1 and claim 14 and is allowable for the reasons recited above in regard claim 14.

Claim 16 further describes the guide member being formed on the flat face and being formed therewith. This has also not been described by the Examiner. Accordingly, this claim is likewise allowable.

Added Claims

By way of the present amendment, Applicant has added additional claims 20-24. Each of these claims include the limitations of claim 2, but depend from independent claims 6, 8, 11, 14 and 15. Accordingly, these claims are believed to be allowable as well.

No Prosecution History Estoppel

Claims 1, 6, 8, 11, 14 and 15 are hereby presented in independent form. No prosecution history estoppel would apply to the interpretation of the limitations set forth in these claims and the claims that depend therefrom in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patent relied on by the Examiner. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By James M. Slattery ^{Reg. No. 32,334}
James M. Slattery, #28,380

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

JMS/RFG/ndb
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